



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

m/053/002

Ref: 8HWM-ER

MAY 4 1995



Mr. Jerry Glazier  
President  
5M, Incorporated  
P.O. Box 752  
279 West State Street  
Hurricane, UT 84737

Dear Mr. Glazier:

I received via first class mail on April 20, 1995, your letter to me which is dated April 18, 1995. You and I discussed the contents of this letter on April 19, after the Utah Department of Environmental Quality (UDEQ) sent its copy of the letter to me via facsimile. I want to reiterate my verbal responses to several issues you raised in the letter and in our telephone conversation, and I want to summarize the subsequent conference call held with you on April 20.

In your letter, you allege that EPA has refused to negotiate or consider any alternative cleanup plans which 5M, Inc. (5M) wishes to propose. On the contrary, EPA has repeatedly expressed its willingness to engage in discussions with you regarding the levels of contamination at the Leeds Silver Reclamation site (Site), the threats posed by the contamination at the Site, and the proposed cleanup plans which EPA has jointly developed with UDEQ, the Utah Division of Oil, Gas, and Mining (UDOGM), the U.S. Bureau of Land Management (BLM), and the U.S. Bureau of Reclamation (BOR). EPA has invited you to submit alternative plans and to submit your comments on the cleanup plan described in the Action Memorandum dated December 7, 1994.

During a meeting at the Site in Leeds, UT, on January 24, 1995, Peter Stevenson, On-Scene Coordinator, gave you draft copies of engineering drawings and discussed with you the preliminary cleanup plans for the Site. You were invited to comment on the draft plans during the meeting, and further, to submit comments or alternative plans to EPA in writing.

In a telephone conversation on February 13, 1995, we discussed the proposed removal action, and you requested that EPA negotiate the action with you. I explained that EPA could negotiate the work to be done within the context of our negotiations for an Administrative Order on Consent (AOC). You expressed a desire to negotiate and meet with EPA. I encouraged you to submit your alternative cleanup proposals for the Site and any comments you wanted to make regarding the plan outlined in the Action Memorandum which was provided to you via facsimile on February 13. I told you to expect to receive the proposed AOC very soon. During the next two weeks, EPA did not receive any submittal of comments or proposed cleanup alternatives from you.



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On February 28, 1995, EPA transmitted to you a draft AOC which included a statement of the cleanup work at the Site. EPA suggested that you contact us to arrange a meeting to discuss the AOC and the necessary cleanup work. In your letter of March 14, 1995, you stated the AOC language was unacceptable, and you did not submit any alternative cleanup plans for EPA's consideration.

During a telephone conversation on March 15, 1995, you expressed to me that you wanted to meet with EPA to negotiate. EPA immediately began trying to arrange such a meeting with you, UDEQ, UDOGM, BLM, and BOR. As you can imagine, the logistics of coordinating the various schedules of all the parties was difficult. You indicated to us that you could not commit to a firm date and location until after your attorney returned to the United States on or about April 3, 1995. On or about April 5, 1995, all of the parties agreed to meet on April 12, 1995, in St. George, UT, in your attorney's office, or in 5M, Inc.'s, offices in Hurricane, UT. You were to let EPA know if your attorney's conference room would be available for the meeting.

EPA called you on Monday, April 10, 1995, to request that the meeting be rescheduled because our key technical project manager, On-Scene Coordinator, Peter Stevenson, was to be a potential witness in a court proceeding in Casper, WY, on April 12, a circumstance which developed on Friday, April 7. You expressed relief that we wanted to reschedule the meeting because you said there had been a death in your family or of a close relative, and you could not attend the April 12 meeting. During that conversation, you agreed to meet in Salt Lake City on April 20, 1995.

As I expressed to you in our conversation on April 19, 1995, EPA was dismayed that your letter of April 18, indicated you were no longer willing to meet with EPA on April 20. You indicated that you were willing to talk via conference call and that you had not retained legal counsel. You stressed both in your letter and in our conversation, that you wanted to work directly with the State agencies. I committed to arrange the conference call including all of the State agencies involved for 10:00 a.m. on April 20, 1995.

EPA consistently represented to you that the purpose of the April 20 meeting, subsequently a conference call, would be to discuss the technical aspects of the Site, to explore the cleanup options including your proposals which had not yet been submitted to EPA, and determine either that 5M, Inc., would conduct the cleanup pursuant to a negotiated AOC or that EPA would conduct the cleanup with Site access granted by 5M, Inc.

In your letter you also allege that EPA is attempting to mandate to the Utah State agencies the cleanup of the Site. Nothing could be further from the truth. The Utah Department of Environmental Quality formally requested that EPA evaluate the



Site for a removal action in January 1992. Since that time, EPA has worked very closely with UDEQ, UDOGM, BLM, and BOR to evaluate the hazards at the Site and to jointly develop an appropriate cleanup plan to address the public health and environmental threats.

This collaborative effort and partnership between the Federal and State agencies was demonstrated during our conference call which convened on April 20, 1995, at 10:00 a.m. The participants in the conference call were: yourself, William Sorenson, and Joe Ipson for 5M, Inc.; Steven Thiriot, Jason Knowlton, Mack Croft, Steve McNeal, and Larry Mize for UDEQ; Lowell Braxton and Wayne Hedberg for UDOGM; Mike Christianson and Gordon Bell for BOR; Craig Zufelt, William Wagner, Terry McFarland, and Alan Rabinoff for BLM; and, Peter Stevenson, Jim Rhodes, Mia Wood, Matt Cohn, and myself for EPA.

During our call, you presented two different technologies which would allow 5M to reprocess the materials on the leach pad at the Site, and you estimated it would take about 12 months to obtain the necessary equipment. All the parties understand your desire to restart operations at the Site. Both UDOGM and UDEQ indicated a willingness to work with you to allow 5M to restart operations at the Site, however, the current releases and threats at the Site must be addressed. A restart of operations at the Site would require submission of a new mining plan, provision for a new reclamation bond, and issuance of new permits for mining, construction, and groundwater discharge. This permitting process was estimated by the State to take up to 9 months.

Both in your letter of April 18, and during the conference call, you requested that EPA withdraw the designation of 5M's property as "wetlands and a Superfund site." The Site has not been proposed for the National Priorities List (NPL), but Superfund authorities are being used to address the Site. There has not been an official, regulatory designation of wetlands applied to the property. However, because an area on the Site has been identified as meeting the criteria for a wetland, EPA must treat the area as a wetland. This wetland area **need not** prevent future operations at the Site. It just means that a Clean Water Act section 404 permit would be required.

EPA has no interest in interfering in any way with 5M's plans to operate in the future at the Site, and EPA has faith that UDEQ and UDOGM would ensure any future operations would be environmentally sound. However, EPA and its State and Federal partners are committed to addressing the public health and environmental threats at the Site. During the call, EPA offered that 5M could proceed in a phased manner with the cleanup, dealing with all of the immediate threats now such as ensuring Site security, addressing the ponds, disposing of the PCB transformers and contaminated soils, and disposing of the buried



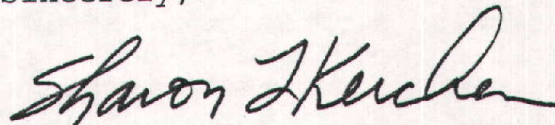
containers. To address the leach pad as a continuing source of releases of hazardous substances, a temporary cap could be installed which would allow 5M enough time to apply for all the necessary permits from UDOGM and UDEQ, and would allow 5M to obtain the new equipment to begin operations to reprocess the leach pile in 6 to 12 months. In your letter of April 18, you raised the issue of a contaminated groundwater well. EPA is not attempting to remediate contaminated groundwater in this removal action, but rather EPA is addressing cleanup of the potential sources of groundwater contamination.

At the conclusion of the call, you rejected EPA's offer that 5M conduct a phased removal action under an Administrative Order on Consent. EPA again requested that 5M provide access to the Site to allow the cleanup to proceed, and I asked that 5M respond by close of business on April 21.

As of the date of this letter, you have not responded to EPA's request for site access. Therefore, please be informed that EPA is proceeding in its efforts to obtain access to the Site through other enforcement mechanisms.

EPA encourages you to continue to communicate with us. We appreciate the discussions of April 20, 1995.

Sincerely,



Sharon L. Kercher, Chief  
Removal Enforcement Section

cc: Senator Orrin Hatch  
Senator Robert Bennett  
Congressman James Hansen  
Congressman Bill Orton  
Governor Michael O. Leavitt  
Representative Met Johnson  
Jason Knowlton, UDEQ  
Wayne Hedberg, UDOGM  
Clark Whitlock, BOR  
Craig Zufelt, BLM  
Matt Cohn, 8RC  
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